BEFORE THE PUBLIC UTILITIE/S COMMISSION
OF THE STATE OF CALIFORNIA

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Order Instituting Rulemaking To Enhance the Role of Demand Response in Meeting the State's Resource Planning Needs and Operational Requirements.	Rulemaking 13-09-011 (Filed September 19, 2013)

JOINT OPENING COMMENTS OF PACIFIC GAS AND ELECTRIC COMPANY, SOUTHERN CALIFORNIA EDISON COMPANY, SAN DIEGO GAS AND ELECTRIC COMPANY, CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION, OFFICE OF RATEPAYER ADVOCATES, THE UTILITY REFORM NETWORK, CALIFORNIA LARGE ENERGY CONSUMERS ASSOCIATION, CONSUMER FEDERATION OF CALIFORNIA, ALLIANCE FOR RETAIL ENERGY MARKETS, DIRECT ACCESS CUSTOMER COALITION, MARIN CLEAN ENERGY, ENERNOC, INC., COMVERGE, INC., JOHNSON CONTROLS, INC., OLIVINE, INC., ENERGYHUB/ALARM.COM, SIERRA CLUB, ENVIRONMENTAL DEFENSE FUND, AND CLEAN COALITION ("SETTLING PARTIES") ON PROPOSED DECISION AND ALTERNATE PROPOSED DECISION ON SETTLEMENT AGREEMENT OF PHASE THREE ISSUES

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DATED: November 17, 2014

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BEFORE THE PUBLIC UTILITIES COMMISSION
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Order Instituting Rulemaking To Enhance the Role of Demand Response in Meeting the State's Resource Planning Needs and Operational Requirements.	Rulemaking 13-09-011 (Filed September 19, 2013)

JOINT OPENING COMMENTS OF PACIFIC GAS AND ELECTRIC COMPANY, SOUTHERN CALIFORNIA EDISON COMPANY, SAN DIEGO GAS AND ELECTRIC COMPANY, CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION, OFFICE OF RATEPAYER ADVOCATES, THE UTILITY REFORM NETWORK, CALIFORNIA LARGE ENERGY CONSUMERS ASSOCIATION, CONSUMER FEDERATION OF CALIFORNIA, ALLIANCE FOR RETAIL ENERGY MARKETS, DIRECT ACCESS CUSTOMER COALITION, MARIN CLEAN ENERGY, ENERNOC, INC., COMVERGE, INC., JOHNSON CONTROLS, INC., OLIVINE, INC., ENERGYHUB/ALARM.COM, SIERRA CLUB, ENVIRONMENTAL DEFENSE FUND, AND CLEAN COALITION ("SETTLING PARTIES") ON PROPOSED DECISION AND ALTERNATE PROPOSED DECISION ON SETTLEMENT AGREEMENT OF PHASE THREE ISSUES

On October 28, 2014, a Proposed Decision (PD) and an Alternate Proposed Decision (APD) "Resolving Several Phase Two Issues and Addressing the Motion for Adoption of Settlement Agreement on Phase Three Issues" were mailed in Rulemaking (R.) 13-09-011 (Demand Response (DR)). The Settling Parties,[1] which filed the Motion for Adoption of the Settlement Agreement on August 4, 2014, respectfully submit these Joint Opening Comments on both the PD and APD pursuant to Rule 14.3 of the Commission's Rules of Practice and Procedure and the Email Ruling of November 6, 2014, expanding the comment page limitation. These Joint Comments are limited to those portions of the PD and APD addressing the Settlement Agreement. They do not address the litigated Phase Two issues and one Phase Three issue that were the subject of briefs and are separately resolved in the PD and APD.

[1] The Settling Parties include Pacific Gas and Electric Company (PG&E); Southern California Edison Company (SCE); San Diego Gas and Electric Company (SDG&E); California Independent System Operator Corporation (CAISO); Office of Ratepayer Advocates (ORA); The Utility Reform Network (TURN); California Large Energy Consumers Association (CLECA); Consumer Federation of California (CFC); Alliance for Retail Energy Markets (AReM); Direct Access Customer Coalition (DACC); Marin Clean Energy (MCE); EnerNOC, Inc. (EnerNOC); Comverge, Inc. (Comverge).; Johnson Controls, Inc. (JCI); Olivine, Inc.; EnergyHub/Alarm.Com; Sierra Club; Environmental Defense Fund (EDF); and Clean Coalition (collectively, Settling Parties).

I.
MODIFICATIONS MADE TO THE SETTLEMENT AGREEMENT BY THE PD AND APD ARE NOT ACCEPTABLE TO THE SETTLING PARTIES, WITH THE APD SETTING A PARTICULARLY INFEASIBLE DEADLINE FOR FULLY IMPLEMENTED BIFURCATION.

The Settling Parties agree with the PD and APD that, for a settlement agreement to be adopted by the Commission, it must be "reasonable in light of the whole record, consistent with the law, and in the public interest."[2] However, the Commission has also determined that, "in light of the strong public policy favoring settlements," the "reasonableness" of a settlement is to be assessed, not by reference to its individual provisions or "whether any single provision is necessarily the optimal result," but rather "whether the settlement *as a whole* produces a just and reasonable outcome" on the "major issues" in the proceeding.[3]

The Settling Parties submit that both the PD and APD fail to adhere to the Commission's own standard of review in addressing the Settlement Agreement at issue here. While the Settling Parties had asked, consistent with Commission precedent, for the Settlement Agreement to be evaluated "as a package," and not "piece by piece," the PD and APD nevertheless elect to examine the "reasonableness" of individual settlement terms, rather than the reasonableness of the Settlement Agreement, *as a whole*. In doing so, the PD and APD fail to consider the "reasonable compromises of Settling Parties' respective litigation positions" on the "major issues" to be considered in Phase Three and, in turn, modify the Settlement Agreement in ways that do not preserve the balance of interests represented by the Settlement Agreement and disrupt the reasonable and meaningful outcomes it achieves.[4]

The PD's and APD's departure from Commission precedent applicable to the review of settlements is particularly problematic here given the specific circumstances of *this* Settlement Agreement. In this case, the Settlement Agreement has been signed by *20* parties to this proceeding who, as confirmed by the PD and APD, "represent diverse interests, including residential and large energy customers, third party demand response providers, community choice aggregation providers, direct access providers, environmental organizations, and utilities and therefore balances [sic] the various interests at stake."[5]

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[2] PD, at p. 13; APD, at p. 13.
[3] D.11-12-053, at pp. 73, 75; emphasis added.
[4] D.11-12-053, at pp. 73, 75.
[5] PD, at p. 38; APD, at p. 39.

The Settlement Agreement is also the product of multi-week, intense, good faith negotiations among these parties dealing with *first-of-their-kind* issues on the design and operation of future DR programs, including bifurcation between load modifying and supply DR resources. The Settlement Agreement comprises mutually acceptable concessions and resolutions of these issues and achieves an interrelated, comprehensive outcome based on all available information on the timing and measures required to achieve this Commission's goal to "enhance the role of demand response in meeting the State's long-term energy goals while maintaining system and local reliability."[6]

The danger of a piece-by-piece assessment of a Settlement Agreement of this kind is evidenced by modifications of individual terms adopted by the PD and APD that are either not supported by the record or are simply unworkable, for the reasons detailed in the following section. The claims made by the PD and APD that individual changes to the Settlement Agreement are required to provide more Commission oversight of the proposed process, address "all aspects of Phase Three," or shorten the "length" of the proposed process[7] are simply not sufficient to justify the PD's and APD's modifications of individual terms, especially when compared to the Settlement Agreement as a whole.

In just one example of the problems created by departing from a holistic examination of the Settlement Agreement, the PD and APD would "modify" the Settlement Agreement by *excluding* emergency or reliability demand response programs from the interim DR goal.[8] In doing so, the PD and APD cite to a 2003 decision, which both acknowledge did not focus on these programs, and further fail to consider whether the inclusion of these programs by the Settlement Agreement in the interim DR goal may reflect a compromise among the parties to reach *other* mutually acceptable outcomes on this and other litigated positions. The PD and APD further compound that error by asserting that the Settlement Agreement "provides no justification" for including these programs in the interim goal. In fact, the Motion for Adoption of the Settlement Agreement makes clear that the Settling Parties were guided in their agreement to include these DR programs by the much more recent and relevant decision, D.14-03-026, affirming that the Commission will not devalue current demand response programs regardless of type.[9]

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[6] PD, at pp. 36, 68 (Finding of Fact 46); APD, at pp. 37, 69 (Finding of Fact 44).
[7] PD, at p. 15; APD, at p. 15.
[8] PD, at p. 19; APD, at p. 19.
[9] Motion for Adoption of Settlement Agreement, at pp. 9-10, with reference to D.14-03-026, at pp. 2, 6, 7.

Beyond that, the PD's and APD's reliance on the Revised Scoping Memo (issued on April 2, 2014) as a rigidly prescriptive justification to change individual settlement terms fails to recognize that the Phase Three workshop record clearly established that the "major issues" to be resolved for future DR program design had manifestly evolved from those identified in the Revised Scoping Memo. As stated in the Motion for Adoption of the Settlement Agreement:

> "One of the primary changes that occurred, however, as a result of the June 9 through June 11 Workshops was the emergence of an understanding of the Phase Three Issues that required both an articulation and resolution of those issues in a manner that was different than reflected in the testimony 'guidance' provided by Attachment A of the April 2 ACR [Revised Scoping Memo]. [¶] As a result, in many cases, the issues and their resolution are different from the precise manner in which they were addressed in the Settling Parties' testimony. This outcome was necessitated by, again, a greater understanding of both the facts and current and future regulatory paradigms that impact these issues."[10]

The Settling Parties believe that these hard-won agreements, as expressed in the Settlement Agreement, reflect and fully respond to the "major issues" presented by Phase Three as those issues came to be understood through the Workshops that post-dated the Revised Scoping Memo.

Finally, the Public Utilities (PU) Code requires Commission decisions to be supported by findings of fact[11] and that those findings must be supported by "substantial evidence in light of the record as a whole."[12] However, the PD's and APD's modifications of settlement terms to accelerate the timeline for "full implementation" of bifurcation[13] do not meet this required standard. These changes by the PD and APD are based on summary conclusions for which no support in the record is cited, and none exists. Instead, the PD and APD simply state that they "disagree" or are dissatisfied with the timeline, even while acknowledging the "complexity" of the issues involved.[14]

The Motion and Settlement Agreement affirm that the Settling Parties took into account all required and foreseeable tariff, funding, and operational changes in agreeing to the process and the timeline for completing it. Prominent among these is the still uncertain impact of the D.C. Circuit Court's order vacating Federal Energy Regulatory Commission (FERC) Order 745 and limiting FERC's authority over DR resources.[15] In fact, it is difficult to reconcile the PD's and APD's

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[10] Motion for Adoption of Settlement Agreement, at pp. 7-8.
[11] PU Code §1757(a)(3).
[12] PU Code §1757(a)(4).
[13] PD, at p. 25; APD, at p. 26.
[14] PD at pp. 25, 31; APD, at pp. 26, 33.
[15] On May 23, 2014, the U.S. Court of Appeal for the D.C. Circuit issued *Electric Power Supply Ass'n v. FERC et al.* (2014 U.S. App. LEXIS 9585) vacating FERC Order 745 in its entirety. Among other things, FERC

rejection of the Settlement Agreement's realistic and feasible timelines for implementing critical changes to California's DR regime with their conclusion that hiring additional experts for the Valuation Working Group is "unnecessary" because "the parties in this proceeding have expertise in the demand response issues being addressed" here.[16] If that is the case, then clearly deference should be given to that same expertise in plotting a reasonable course and timeline to effect full implementation of bifurcation.

The Settling Parties do not dispute that the Commission should provide "sufficient oversight of the process" identified in the Settlement Agreement.[17] However, such orders, including any reporting requirements or limitations on Commission staff involvement, could be *added* to a decision on the Settlement Agreement *without modifying settlement terms.*

For these reasons, and as further detailed below, the modifications to the Settlement Agreement made by the PD and the APD are unacceptable to the Settlement Parties, with the APD offering the least feasible changes between the two decisions. At this point, the Settling Parties believe that the Commission should adopt the Settlement Agreement, as written, with supplemental orders, if necessary, to allow for Commission oversight. Absent that action, the Settling Parties strongly urge the Commission to consider the revisions proposed in the following section, with the PD, not the APD, serving as the starting point for these essential changes.

II.
THE PD AND APD BOTH REQUIRE REVISION TO CORRECT ERRONEOUS MODIFICATIONS OF THE SETTLEMENT AGREEMENT, AND THE APD'S TIMELINE FOR FULL IMPLEMENTATION MUST BE REJECTED.

The modifications made by the PD and APD to individual terms of the Settlement Agreement terms disrupt the careful balancing of interests represented by the agreement and fail to fairly account for the law, policy, and record that affect resolution of these issues today and were fully considered by the Settling Parties. These errors, detailed as follows by Issue Area, must be corrected in any final decision on the Settlement Agreement.

A. Issue Area 1: Demand Response Goals

In making fundamental changes to the Settlement Terms on DR Goals, and not just providing for additional direction on funding or process within the Commission's purview, the PD and APD

Order 745 established the compensation levels for suppliers of demand response resources that participate in ISO wholesale markets. On September 17, 2014, petitions for rehearing of this decision filed by multiple parties, including FERC, were denied by the court.

[16] PD, at p. 26; APD, at p. 28.

[17] PD, at p. 15; APD, at p. 15.

have neglected to account for the circumstance that any of those terms could represent a key concession by one party as a condition of agreement to another settlement term. The PD and APD have also unreasonably modified individual terms based on dated decisions, when facts and DR goals and programs have changed. These circumstances apply to the following modifications to the Settlement Agreement by the PD and APD, which upset the Settlement balance as a whole and should be reversed in favor of adoption of the Settlement Terms on Issue Area 1:

- ***The PD/APD's determination that emergency and reliability DR programs cannot apply to the interim 5% DR goal is unreasonable and should be reversed.***

Emergency and reliability DR programs should be allowed to count toward the interim DR goal, as the Settling Parties have agreed. Of critical importance in reaching this agreement is the fact that these programs are a large part of DR today and will continue to be a large part of the DR portfolio in the foreseeable future.[18] Thus, the current level of DR (identified by the Settlement Agreement as comprising 3.9% of the sum of the utilities' individual system peak demands) includes emergency and reliability DR programs.[19] Further, both the PD and the APD acknowledge the value of these programs.[20] At this point, it is reasonable to include these programs in the *interim* DR goal, especially recognizing that the Commission can establish different long-term goals once the DR Potential Study is completed and can determine the role of reliability DR programs in meeting those goals based on better information available then.

- ***The PD/APD's requirement that the DR Potential Study address program categorization is unnecessary and is inconsistent with the Settlement Agreement and the purpose of that study.***

Ordering Paragraph 3.b. of both the PD and APD modifies Issue Area 1 of the Settlement Agreement by requiring the DR Potential Study to "address the issue of program categorization, in addition to the other issues set forth in the Settlement."[21] This modification does not reflect the purpose of the DR Potential Study (to establish goals) or the Settlement Agreement as a whole and should be rejected.

The Settling Parties have determined and agreed that programs can partly be Load Modifying Resources (LMR) and partly be Supply Resources (SR), as supported by testimony in the Phase

[18] In this regard, both the PD and APD rely on a 2003 Commission decision without any consideration of whether current circumstances warrant a change in that dated policy. Notably, the 2003 decision refers to the DR vision as "an evolving document and work-in-progress at all times." D.03-06-032, at p. 8.
[19] Settlement Agreement, at p. 7.
[20] See PD, at p. 19; APD, at p. 19.
[21] PD, at p. 75; APD, at p. 76.

Three evidentiary record.[22] A determination of which programs should fall into which categories must be informed by the nature of the programs, their value as SR or LMR DR, and also the cost and feasibility of integration into California Independent System Operator (CAISO) markets.[23] The DR Potential Study is being undertaken not for the purpose of making this determination, but rather for providing a factual basis for establishing goals. As such, this Ordering Paragraph 3.b. does not make sense in the context of this Study or the Settlement Agreement and should be eliminated.

- ***Certain other issues identified by the PD and APD for inclusion in the DR Potential Study do not belong in that study and should also be removed.***

The PD and APD have added other issues (besides program categorization) to the DR Potential Study, which are equally inappropriate, at odds with the Settlement Agreement as a whole, and should be removed. In this regard, the PD and APD wrongly add consideration of how to measure and set annual goals for integration and the rules for reaching those goals,[24] which should be addressed in a separate proceeding following the completion of the DR Potential Study.

B. Issue Areas 2 and 4: Valuation/Program Categorization and CAISO Integration

- ***The reduction in value of load modifying resources is not supported by Commission policy, the record or the Settlement Agreement, and must be eliminated.***

Ordering Paragraph 4.e. of the PD and APD modifies the Settlement Terms of Issue Areas 2 and 4 by ascribing a lower value to LMR DR versus SR DR.[25] This modification contradicts, and inappropriately prejudges, one of the fundamental agreements reached by the Settling Parties consistent with Commission precedent. Namely, the Settling Parties agreed that the LMR DR Valuation Working Group should recommend how LMR (which includes all types of DR, event-based or non-event-based, emergency or price responsive) is to be properly valued, without any "preconceived decision" about how LMR will be valued after 2019.[26]

As reflected in that Working Group's Charter, that value must be based on "evidence and facts."[27] Absent either of those, it is inappropriate to prejudge that outcome. The Group's diverse expertise and experience, supplemented by outside neutral experts as recommended by the Settlement Agreement, is critical to proper valuation of LMR DR. Ordering Paragraph 4.e. would undermine this systematic process and the entire Settlement Agreement by deciding *a priori*, without record

[22] Exhibit (Ex.) PGE-1, Volume 2, at p. B-2 (Olivine (Gerber)).
[23] Settlement Agreement, at p. 22.
[24] PD, at p. 19; APD, at p. 19.
[25] PD, at p. 76; APD, at p. 77.
[26] Settlement Agreement, at p. 21.
[27] LMR DR Valuation Working Group Charter, Section 11.b, bullet 3.

evidence, an issue that Settling Parties agreed requires thorough analysis before any such determination can be made.

For the same reasons, the LMR devaluation reflected on page 27 of the PD and page 77 of the APD should be corrected in the Commission's final decision. Any suggestion now, absent record evidence, that LMR has a lower value than SR DR will conflict with both D.14-03-026 and the Revised Scoping Memo itself, which confirm that devaluation is to be prevented and parity ensured between LMR DR and SR DR.[28]

Finally, Ordering Paragraph 4.a. of the PD should be modified to reflect that, beginning in 2019, a "stretch goal," or 2020 if 2019 is not accomplished (see, following section),[29] all DR programs will need to meet resource adequacy rules by *either* reducing the RA requirement as a load-modifying resource or counting toward meeting the RA requirement as a supply resource.[30] These revisions are required because, by only mentioning supply resources, this ordering paragraph could suggest that load modifying resources do not have RA value. That is inconsistent with the Settlement Agreement and D. 14-03-026, which states that bifurcation will not diminish the value of retail DR,[31] and should be clarified as indicated above. The Settlement Agreement is clear that LMR DR is valuable and that its value after 2019 will be depend on whether it reduces the RA requirement.[32]

- ***The PD's acceleration from 2020 to 2019 for ending the current RA valuation method unreasonably disrupts the overall balance achieved by the Settlement Agreement and would only be possible with Commission support of appropriate mitigating conditions. The APD's acceleration to 2018 is infeasible and should be rejected.***

The Settling Parties thoroughly considered all circumstances and measures to fully implement bifurcation and, as part of the Settlement Agreement as a whole, agreed that 2020 was the most reasonable date by which the current RA valuation method could end, while ensuring the continued growth of DR. Yet, with no apparent record evidence, the PD and APD would move this deadline forward to 2019 (the PD) or, worse, 2018 (the APD). These changes appear to turn solely on the PD's and APD's "finding" based on Calpine Corporation's (Calpine's) assertion that there is

[28] D.14-03-026, at p. 6; Revised Scoping Memo, at p. 4; Attachment A, at p. 1

[29] The language of Ordering Paragraph 4.a. in the PD versus the APD is different in a very critical way, with the PD advancing the timeline adopted by the Settlement Agreement for full implementation of bifurcation from 2020 to 2019 and the APD advancing that date to 2018. As discussed further, neither date is appropriate, but 2019, with conditions, is preferable to 2018, which is infeasible and should be rejected.

[30] Appendix B proposes similar modifications to the PD's and APD's Ordering Paragraph 4.a., but eliminates the APD's 2018 deadline in its entirety as not feasible for the reasons stated in the following section.

[31] D.14-03-026, at pp. 6-7.

[32] Settlement Agreement, at p. 23.

"little justification for delaying the use of a more accurate treatment of demand resources for resource adequacy purposes until 2020."[33] Neither Calpine nor any other party attempted to define the term "accurate" in this context or demonstrated that accelerating the timeline for full implementation by a full year or two years is feasible in practice.

In contrast, the Settling Parties' proposed 2020 deadline reflects very real and pragmatic considerations underlying that date (see below). Given those circumstances, the 2019 date set by the PD could possibly be feasible as part of the Settlement structure, but only with appropriate conditions, off-ramps, and full Commission support and approval of the remainder of the Settlement essentially without change (subject to resolution of processes and funding issues in A.14-06-001, et. seq. (Rules 24/32). As a minimum condition to accepting a one-year acceleration to the timing adopted by the Settlement Agreement, the Settling Parties propose the following: If "full implementation" of bifurcation has taken place (based on factors known in advance) as of January 1, 2019, the Commission could issue a determination to that effect. If "full implementation" has not taken place, due to any new RA rules applicable to SR and LMR DR, for example, the Commission could issue a determination to delay the date until 2020. That result will not change the Settlement Agreement (Section II.B.1), other than changing the words "through 2019" to "through 2018," "beyond 2019" to "beyond 2018," and "after 2019" to "after 2018."

The Settling Parties do not agree, or accept, that the APD's 2018 date is reasonable or achievable for several reasons. It would not provide any reasonable certainty or stability for DR parties to commit to grow DR. Nor would it allow enough time to incorporate Working Group results or to implement systems needed to support a meaningful amount of SR DR, as discussed below. Moreover, like the PD, the APD fails to consider the legal uncertainty surrounding FERC Order 745 or the delays likely to result. Imposing the 2018 deadline would upset the basic structure of the Settlement and is simply not feasible, given technical, operational, market, and legal challenges that remain unresolved.

- ***While the APD's adoption of 2018 for full implementation of bifurcation is completely infeasible, the PD's 2019 deadline should only be adopted if the Commission provides appropriate conditions and support.***

The Settling Parties urge the Commission to make clear in its final decision on Phase Three issues that "full implementation" of bifurcation means (1) adoption and implementation of an appropriate methodology to value and operationally account for LMR DR, (2) adoption of rules for

[33] PD at pp. 24, 65-66 (Findings of Fact 15, 19, 21); APD, at pp. 25, 67 (Finding of Fact 17).

RA treatment of all forms of DR, and (3) adoption and implementation of key requirements to integrate DR into CAISO markets where appropriate. The PD appears to assume that all of these actions will have been taken by 2019, which shortens the Settlement Agreement's transition time by a full year (from 2020). The Settling Parties firmly believe that this year is an important part of the timeframe reasonably required to ensure a smooth and complete transition.

Among other things, this Commission, the California Energy Commission (CEC), and CAISO must adopt and implement a methodology for appropriately valuing LMR DR, both in the CEC's load forecasts and the CAISO's operations, to reflect its impact in reducing the need for RA capacity and avoiding unnecessary dispatch of supply resources. Added to this requirement are the cost and complexity of CAISO integration, conditions specifically, and repeatedly, recognized by the PD and APD.[34] Thus, the SR DR Integration Working Group's efforts may result in proposed changes to the CAISO's tariffs, requiring a FERC tariff filing and order followed by software changes by the CAISO, Demand Response Providers (DRPs), and Load Serving Entities (LSEs) before the tariffs can be implemented.

The results of the SR DR Integration Working Group are likely to affect the feasibility, timing, and cost-effectiveness of integrating certain DR, including through the Demand Response Auction Mechanism (DRAM). These results, as well as any further non-Rule 24/32 CAISO integration requirements resulting from the CAISO's forthcoming software changes and the costs and auction design for the DRAM, will affect the utility applications for the post-bridge funding period beginning in 2017. Thus, the Commission may wish to incorporate the consequences of these factors in the guidance document it prepares for those applications.

If the Working Group reports are issued in summer 2015 and if the Commission wishes to reflect the results in its guidance documents, the latter may be delayed beyond the expected May 2015 date. This could delay the utility applications for the post bridge funding period and the final decision on them. The utilities will then need time to implement the decisions, which are likely to include creating additional system enhancements. Full implementation of any additional functionality and new programs is simply not feasible in 2018 and is likely to be very challenging in 2019.

[34]PD, at pp. 23-24, 31, 67, 71 (Findings of Fact 34, 72); APD at pp. 68, 72 (Findings of Fact 32, 68).

The uncertainty over FERC Order 745 will also affect the integration of third party DR into CAISO markets and implementation, as will the Commission's upcoming decision on the utility Rule 24/32 applications (A. 14-06-001, et al.). If the Commission decides it wants more extensive direct participation than can be supported by the pending utility systems and funding requests in the Rule 24/32 applications, there will need to be time for another round of applications for additional capacity and funding, a decision, and then implementation.

Given the number of entities involved, decisions to be made, funding requests to be approved, and implementation actions required, a constraint in any of these areas is likely to result in delays. With these uncertainties and challenges, while it might be possible to implement some bifurcation in 2018, *full* bifurcation in 2018 as ordered by the APD is simply not feasible.

Thus, from the Settling Parties' perspective, full bifurcation by 2020 is, and remains, a reasonable goal. Full bifurcation by 2019 is at best a stretch goal and still risks delay or shortcuts in the critical LMR DR valuation methodology that could diminish the value of existing and future DR in contravention of the Commission's DR goals. While 2018 is an unacceptable deadline, even 2019 cannot be adopted unless the Commission can ensure timely action on all required steps and provides for up-front conditions or off-ramps in the event of delay. To illustrate how each of the precedents and constraints in the coming years can affect the final date of bifurcation, a bifurcation timeline inclusive of the regulatory processes, is attached and incorporated by reference to these comments, as Appendix A hereto.

- ***The PD's and APD's denial of authorization to hire consultants to support the Valuation Working Group process will undermine that work and should be reversed.***

Ordering Paragraph 4.b. of both the PD and APD denies the hiring of additional experts for the Valuation Working Group. This determination is unreasonable, and the Ordering Paragraph, along with related discussion and findings, should be deleted and replaced with an authorization for reasonable use of consultants. The LMR DR Valuation Working Group has critical, complex issues to resolve and the use of outside experts will enable a better work product and improve credibility by incorporating outside third party knowledge in the discussion as a neutral party. It will also allow work to be performed that the parties may not have time or resources to do. It is not expected that the costs would exceed $200k, and the funding can be shared by the utilities out of their DR budgets if allowed by the Commission. Some of the LMR DR Valuation subgroups, e.g. the transmission and

distribution (T&D) Capacity Subgroup, may also need to hire consultants in instances when new work is being conducted.

- ***Contrary to the PD's and APD's findings, DR Programs can be, and are being, partitioned into LMR and SR Resources***.

The PD and APD incorrectly state as fact: "The record of this proceeding includes no evidence to justify the statement that a demand response program can be partitioned into load modifying and supply resources."[35] This finding is incorrect and contrary to record evidence here. In testimony provided by Olivine witness Gerber, he explains how "portions" of existing DR programs could be supply resources while portions remain LM resources.[36] DR resources bid into CAISO's markets must have a unique combination of LSE, DRP, and sub Load Aggregation Point (subLAP) and must be a minimum of 100 kW in load. Mr. Gerber's testimony shows that this requirement cannot be met for many existing DR programs. Thus, the portions that can meet the minimum size requirement by subLAP and LSE can be bid in, while the other portion remains valid LMR DR. Recognition of the ability to partition DR resources is a key part of the Settlement Agreement, is supported by the record, and requires eliminating contrary conclusions in the PD.[37] In addition, PG&E successfully bid portions of two DR programs into the CAISO's markets this past summer, further demonstrating that this Finding of Fact is not correct.

C. Issue Area 3: Demand Response Auction Mechanism Pilot

- ***The date established by the PD/APD for filing the DRAM Pilot Design is unreasonable and should be revised to set a more realistic timeframe.***

> Ordering Paragraph 5.c. of both the PD (at page 77) and APD (at page 78) directs:
>
> "[T]he DRAM pilot design, requirements, protocols, standard pro forma contracts, evaluation criteria and non-binding cost estimates will be filed at the Commission as a Tier 3 advice letter no later than February 1, 2015."

This filing date falls far short of the amount of time needed to develop the DRAM Pilot. The Commission should revise the PD to allow for a minimum of 5 months for this work to be completed. Even with this amount of time, until there is a Commission order for the DRAM Pilot Working Group to convene, it is not clear that there will be a sufficient amount of time to hold an auction in 2015 for the 2016 delivery year.

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[35] PD, at p. 66 (Finding of Fact 28), APD, at p. 68 (Finding of Fact 26); see also, PD, at p. 26.
[36] Ex. PGE-1, Volume 2, at p. B-2 (Olivine (Gerber)).
[37] PG&E successfully bid of part of its Capacity Bidding Program (CBP) and Aggregator Managed Portfolio (AMP) into the CAISO as Proxy Demand Resource (PDR) in 2014, for which supporting evidence can be provided if needed.

Assuming that the Commission votes on the PD and APD at its December 4, 2014 meeting, parties would have *less than two months*, coinciding with the holiday season, to develop the components of the pilot in time for a February 1, 2015 filing date. This drastically shortened time fails to acknowledge the realities that the Settling Parties understood would be needed for multiple parties and the Energy Division to thoughtfully design the DRAM Pilot and then to agree on its protocols, standard contract terms, and evaluation criteria -- a process which took over 9 months for the Renewable Auction Mechanism (RAM), a related but simpler mechanism.

In Attachment D to the Settlement Agreement, the Settling Parties provided a draft schedule to develop the DRAM Pilot and conduct the auctions. This draft schedule was created with the expectation that it would likely change once the DRAM Pilot Working Group can convene and parties can determine the amount of time needed to implement a successful auction. The Settling Parties expected that the Commission would have issued a ruling in August 2014 explicitly authorizing the utilities to convene workshops on the DRAM Pilot design to avoid anti-trust concerns, shortly after the Motion for Adoption of the Settlement Agreement was filed. Under this scenario, the Settling Parties envisioned approximately five months to develop the initial draft Pilot proposal, followed by a workshop to collect input from parties not involved in developing the DRAM Pilot, a workshop report, comments and reply comments on the workshop report, and finally, a Commission decision/resolution at the beginning of June. The logic behind the proposed process and timeline was to ensure that a successful DRAM Pilot could be developed in close cooperation with Energy Division staff and Assigned ALJ and could adhere as closely as possible to the proposed schedule in the Revised Scoping Memo (Attachment B) and allow for a 2015 auction for 2016 delivery.

The ruling requested in the August Motion has not been issued, and neither the October 28 PD or APD explicitly authorizes the utilities to convene workshops to develop the DRAM Pilot. Consistent with the draft schedule, a more realistic filing date for the Tier 3 advice letter would be five months following a Commission decision (e.g., May 1, 2015). Even with a May 1, 2015 filing date, there is no certainty that there will be sufficient time for an initial auction to be held in 2015 for 2016 delivery. Once the DRAM Pilot Working Group can convene, there will be an opportunity for parties to develop a more realistic schedule that may or may not result in a 2015 auction.

- ***An Ordering Paragraph must be added to allow the parties to collaborate on the DRAM Working Group.***

A Commission order or ruling is required to allow the parties to convene workshops to develop the DRAM materials without raising anti-trust concerns. This request was first made in the Motion for the Settlement filed in August, and the absence of such a ruling or order continues to delay the start of work on DRAM. [38] The Commission must also require Energy Division to participate and provide guidance to this workshop and notice the DRAM workshop meetings in the Commission Daily Calendar to ensure full notice and encourage attendance by all interested parties.

D. Issue Area 5: Future Budget Cycles

- ***The APD altering of the Bridge period to include 2017 is not consistent with the Settlement Agreement, is part of an infeasible schedule adopted by the APD, and should not be adopted.***

The Settling Parties, as part of the overall, well-considered transition period and plan set forth in the Settlement Agreement as a whole, agreed that a 2017-2019 DR cycle should follow the currently approved 2015-2016 Bridge Period. In contrast, the APD adds 2017 to the Bridge Period, which alone, and as part of its acceleration of the schedule to full bifurcation, is not feasible and must be rejected. The timeline and plan set forth in the Settlement Agreement, as established both in that document, the accompanying motion, and these comments, was carefully considered as part of the whole Settlement package to provide a clear and consistent plan to grow DR and should be adopted.

III.
THE DEADLINE SET BY THE PD AND APD FOR SETTLING PARTIES TO ACCEPT MODIFICATIONS IS UNREASONABLE AND MUST BE CHANGED.

Both the PD and APD require that "[a]s provided for in Rule 12.4(c), we also provide the Settling Parties 10 days after the issuance of this decision to either accept the modifications we propose in this decision or request other relief," with the Settling Parties required to make this "compliance filing" "[n]o later than 10 days following the issuance of this decision, … stating whether they accept the modifications adopted in this decision or if they request alternate relief."[39] This determination fails to reflect the actual provision cited, especially as to timing. Rule 12.4(c)

[38] The Motion for Adoption of Settlement Agreement states at page 20: "In addition, to permit prompt development of the DRAM Pilot as identified in the Settlement Agreement, an ALJ's Ruling is required prior to a final decision to authorize PG&E, SCE, and SDG&E to convene workshops to enable all parties, interested stakeholders, and entities to begin the work necessary to develop the DRAM Pilot design, including DRAM RFO solicitations, protocols, standard contracts, and other DRAM Pilot Design matters, as soon as possible."

[39] PD, at p. 14; APD, at p. 14.

provides that the Commission may "reject" a settlement and then "propose alternative terms" acceptable to the Commission and "allow the parties *reasonable* time within which to elect to accept such terms or to request other relief."[40] A "10-day" time limit is *not* part of this rule and is completely *unreasonable* given the admitted "complexity" of the issues involved in Phase Three and the significant number of parties required to reach a *new* agreement on modifications that were not part of the original good faith negotiations and concessions reached in the Settlement Agreement. If the Commission does not adopt the Settlement Agreement as submitted, to preserve due process the Settling Parties strongly recommend that the Commission extend this "due date" to at least 45 days after the issuance of the final decision.

IV.
CONCLUSION

For the foregoing reasons, the modifications made by the PD and the APD to the Settlement Agreement are unacceptable and require elimination or revision. It is the Settling Parties' position that the Commission should adopt the Settlement Agreement in full as reasonable and in the public interest, as written. However, absent that action, the Settling Parties ask the Commission to work from the PD, with the changes recommended herein by the Settling Parties and in the Proposed Findings of Fact and Proposed Ordering Paragraphs in Appendix B hereto. The APD, in particular its 2018 deadline for full implementation of bifurcation, is unreasonable and should not be adopted. The Settling Parties should also be given at least 45 days from the issuance of a final decision that modifies any settlement term to make a compliance filing accepting the modifications or seeking alternate relief.

The Joint DR Parties are authorized by each of the Settling Parties to sign these Joint Opening Comments on their behalf.

Respectfully submitted on behalf of the Settling Parties,

November 17, 2014

/s/ SARA STECK MYERS

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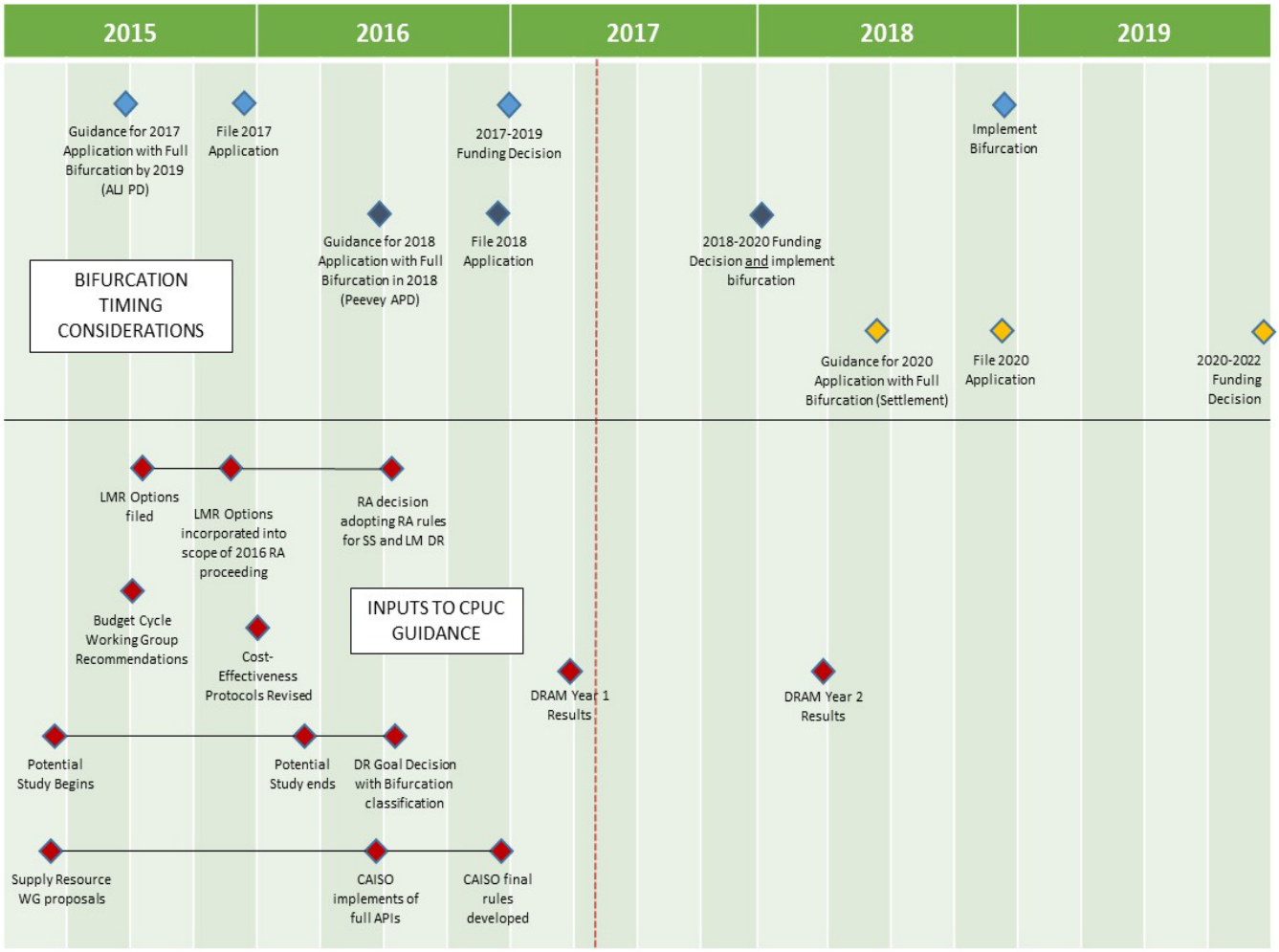
[40] Commission Rules of Practice and Procedure, Rule 12.4(c); emphasis added.

APPENDIX A

BIFURCATION TIMELINE



Proposed Decision (ALJ Hymes) – Bifurcation by 2019

Alternate Proposed Decision (Commissioner Peevey) – Bifurcation by 2018

Settlement Proposal – Bifurcation by 2020

Inputs necessary for Commission guidance

APPENDIX B

SETTLING PARTIES PROPOSED FINDINGS OF FACT AND PROPOSED ORDERING PARAGRAPHS FOR PROPOSED DECISION AND ALTERNATE PROPOSED DECISION

The Settling Parties jointly propose the following modifications to the Findings of Fact and Ordering Paragraphs in the Proposed Decision and Alternate Proposed Decision addressing the Settlement Agreement of Phase Three Issues in R.13-09-011 (Demand Response).

Please note the following:

- The proposed revisions are labeled as to whether they are to the Proposed Decision (PD) or Alternate Propose Decision (APD).
- A page citation to the Proposed Decision and/or Alternate Proposed Decision is provided in brackets, preceded by the designation PD or APD, for each Finding of Fact and/or Ordering Paragraph for which a modification is proposed.
- Added language is indicated by **bold type**; removed language is indicated by **bold strike-through**.
- Any **new or added** Finding of Fact or Ordering Paragraph is preceded by the word "***ADDITIONAL/NEW***" in **bold italics** *with numbering consistent with its placement in the PD or APD*.

PROPOSED FINDINGS OF FACT

PROPOSED DECISION

PD ***ADDITIONAL/NEW*: 8.a. All demand response programs will be counted toward meeting the goal.**

PD 9. [65] ~~**Categorization of demand response programs is not adequately addressed in Issue Area 2 of the Settlement.**~~

PD 15. [65] ~~**Calpine's concern regarding maintaining the current counting method through 2019 is valid.**~~

PD ***ADDITIONAL/NEW*: 18.a. The Commission has stated that it does not intend to devalue or silo demand response resources as a result of bifurcation.**

PD ***ADDITIONAL/NEW***: **18.b. Valuation of demand response resources should be based upon the proposals of the working groups and cost-effectiveness analysis.**

PD **19.** [66] ~~**There is little justification for delaying, until 2020, use of a more accurate treatment of demand response resources for resource adequacy purposes.**~~

PD ***ADDITIONAL/NEW***: **[New 19]. The Settling Parties have demonstrated that, in addition to the work performed by the various working groups, there are integration processes, including system changes, that will need to occur in advance of full integration.**

PD 21. [66] ~~**Delaying a more accurate accounting of demand response's contributions toward meeting resource adequacy requirements nullifies an important purpose of bifurcation**~~.

PD ***ADDITIONAL/NEW***: **[New 21]. After the working groups have completed their work, the Commission must adopt rule changes for resource adequacy and provide guidance to the utilities for program cycles after the transition period.**

PD 22. [66] 2020 is ~~**not**~~ a reasonable timeline for full implementation of integration into the CAISO energy market**; however, we are imposing a 2019 "stretch goal" upon the parties**.

PD 25. [66] The transition program cycle should end with a complete transition to full implementation of bifurcation, which includes that only supply resources are eligible for resource adequacy credit **and load-modifying resources reduce the resource adequacy requirement consistent with the recommendations of the LMR Valuation Working Group**.

PD 27. [66] The hiring of additional experts for the Valuation Working Group ~~**is not**~~ **may be** necessary **to properly complete the work in a timely manner**.

PD 28. [66] The record of this proceeding includes ~~**no**~~ evidence to justify the statement that a demand response program can be partitioned into load modifying and supply resources.

ALTERNATE PROPOSED DECISION

APD ***ADDITIONAL/NEW***: **6.a. All demand response programs will be counted toward meeting the goal.**

APD 7. [66] ~~**Categorization of demand response programs is not adequately addressed in Issue Area 2 of the Settlement.**~~

APD 13. [66] ~~**Calpine's concern regarding maintaining the current counting method through 2019 is valid.**~~

APD ***ADDITIONAL/NEW*****: 16.a. The Commission has stated that it does not intend to devalue or silo demand response resources as a result of bifurcation.**

APD ***ADDITIONAL/NEW*****: 16.b. Valuation of demand response resources should be based upon the proposals of the working groups and cost-effectiveness analysis.**

APD 17. [67] ~~**There is little justification for delaying, until 2020, use of a more accurate treatment of demand response resources for resource adequacy purposes.**~~

APD ***ADDITIONAL/NEW*****: [New 17]. The Settling Parties have demonstrated that, in addition to the work performed by the various working groups, there are integration processes, including system changes, that will need to occur in advance of full integration.**

APD 19. [67] ~~**Delaying a more accurate accounting of demand response's contributions toward meeting resource adequacy requirements nullifies an important purpose of bifurcation**~~.

APD ***ADDITIONAL/NEW*****: [New 19]. After the working groups have completed their work, the Commission must adopt rule changes for resource adequacy and provide guidance to the utilities for program cycles after the transition period.**

APD 20. [67] 2020 is ~~**not**~~ a reasonable timeline for full implementation of integration into the CAISO energy market**; however, we are imposing a 2019 "stretch goal" upon the parties**.

APD 23. [67] The transition program cycle should end with a complete transition to full implementation of bifurcation, which includes that only supply resources are eligible for resource adequacy credit **and load-modifying resources reduce the resource adequacy requirement consistent with the recommendations of the LMR Valuation Working Group.**

APD 25. [67] The hiring of additional experts for the Valuation Working Group ~~**is not**~~ **may be** necessary **to properly complete the work in a timely manner**.

APD 26. [68] The record of this proceeding includes ~~**no**~~ evidence to justify the statement that a demand response program can be partitioned into load modifying and supply resources.

PROPOSED ORDERING PARAGRAPHS

PROPOSED DECISION

PD 2. [74-75] Pursuant to Commission Rules of Practice and Procedure 12.4(c), Alliance for Retail Energy Markets, The California Independent System Operator, California Large Energy Consumers Association, Clean Coalition, Comverge, Inc., Consumer Federation of California, Direct Access Customer Coalition, EnergyHub/Alarm.com, EnerNOC, Inc., Environmental Defense Fund, Johnson Controls, Inc., Marin Clean Energy, Office of Ratepayer Advocates, Olivine, Inc., Pacific Gas and Electric Company, San Diego Gas & Electric Company, Sierra Club, Southern California Edison Company, and The Utility Reform Network have ~~**ten (10)**~~ **forty-five (45) days** following the issuance of this decision to file, in this proceeding, a compliance letter electing to either accept the modifications herein or request other relief.

PD 3. [75] We adopt the terms and conditions of Issue Area 1 of the Settlement, as attached in **Attachment A of** Appendix ~~**A**~~**1**[41] of this decision, with the following modifications:

a. The Demand Response Potential Study shall be designed by staff using the parameters of the Settlement as a guideline.

~~**b. The Demand Response Potential Study shall address the issue of program categorization, in addition to the other issues set forth in the Settlement.**~~

~~**e**~~**b**. Commission staff is directed to begin the design phase immediately upon approval of this decision.

~~**d**~~**c**. Commission staff is directed to present the design to all stakeholders at an Administrative Law Judge facilitated workshop held within a reasonable time following the issuance of this decision.

~~**e**~~**d**. The Demand Response Potential Study will be completed no later than one calendar year from its commencement.

~~**f**~~**e**. Commission staff is directed to provide a final report to the assigned Administrative Law Judge on the Demand Response Potential Study no later than 90 days from the completion of the study.

f. [*ADDITIONAL/NEW*] Commission staff will present the results of the study through a publicly noticed workshop and accept comment from parties as to the study results before they are adopted as goals for the utilities.

PD 4. [75-76] We adopt the terms and conditions of Issue Areas 2 and 4 of the Settlement, as attached in **Attachment A of** Appendix ~~**A**~~**11** of this decision, with the following modifications:

[41] The PD and APD included the Settlement Agreement as Attachment A of Appendix 1, not Appendix A.

a. The 2017-2019 demand response program cycle will be a full transitional program cycle beginning with small steps toward bifurcation in 2017 and ending with fully implemented bifurcation in 2019 ~~to include the new valuations for resource adequacy credits~~ **as a "stretch goal." "Full implementation" of bifurcation means that all of the following have been achieved: (1) adoption and implementation of an appropriate methodology to value and operationally account for Load Modifying Resource (LMR) DR, (2) adoption of rules for resource adequacy (RA) treatment of all forms of DR, and (3) implementation of key requirements to integrate DR into CAISO markets where appropriate.** Thereby, beginning ~~**in 2020, only supply resources that directly meet reliability or CAISO operational needs will be eligible for resource adequacy credit.**~~ **January 1, 2019 (or January 1, 2020 if 2019 is not accomplished) the transition period will be over and all demand response programs will need to meet resource adequacy rules to either reduce the RA requirement as a load-modifying resource or to count toward meeting the resource adequacy requirement as a supply resource. The Commission will provide for waivers from the 2019 date for "full implementation" and RA transition, if circumstances show it is not reasonable to attain full implementation by January 1, 2019. In any case the RA transition will take place no later than January 1, 2020.**

b. ~~**The hiring of additional experts for the Valuation Working Group is unnecessary and is denied.**~~ **Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas and Electric Company are authorized to use up to $200,000.00 from the 2015-16 DR budgets to fund outside experts to support the Valuation Working Group.**

~~**c. We deny, at this time, the contention that a demand response program can be partitioned into a load modifying and supply resource. Any such future contention, for example in a report, must be accompanied by supporting facts.**~~

~~**d**~~**c**. The process described in Section B.11.e of the Settlement, regarding the identification and resolution of how unmet goals can be met, shall be considered when the Commission considers the results of the Demand Response Potential Study.

~~**e. During the identification of the values of supply and load modifying resources, the Load Modifying Resource Demand Response Valuation Group should capture the value provided by supply resources for meeting the higher levels of costs, requirements, and complexity or, alternatively, load modifying resources should receive lesser value to the extent they do not meet the higher level of costs, requirements and complexity.**~~

~~**f**~~**d**. We establish the following reporting requirements: a) Integration Working Group – Quarterly Reports (filed as compliance reports) on the meetings held, the products developed, and the groups' successes and missteps; the mid-year report referred to in the charter, which is to include proposed changes, priorities and time-line, shall also be filed no later than June 30, 2015, as a compliance report; b) Valuation Working

Group -- the May 1, 2015 report referenced in the charter shall be filed as a compliance report; c) Operations Working Group – Quarterly Reports (filed as compliance reports) on the meetings held, the products developed, and the groups' successes and missteps. The Quarterly Reports will be due on April 1, July 1, October 1 and January 1 until the completion of this proceeding. The Quarterly Reports may be filed by one or more representatives of the Settling Parties, but the ultimate responsibility of ensuring the filing of these reports shall fall on PG&E, SDG&E, and SCE.

PD 5. [76-77] We adopt the terms and conditions of Issue Area 3 of the Settlement, as attached in **Attachment A of** Appendix ~~A~~**1**of this decision, with the following modifications:

[MODIFICATION TO subpart c. only, and ADDITION OF NEW subpart e.]

…….

c. The Demand Response Auction Mechanism pilot design, set asides requirements, protocols, standard pro forma contracts, evaluation criteria and non-binding cost estimates will be filed at the Commission as a Tier Three advice letter, no later than ~~**February**~~ May 1, 2015.

…….

e. [*ADDITIONAL/NEW*] Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas and Electric Company are authorized to convene workshops to enable all parties, interested stakeholders, and entities to begin the work necessary to develop the DRAM Pilot design, including DRAM RFO solicitations, protocols, standard contracts, and other DRAM Pilot Design matters.

PD 6. [77-78] We adopt the terms and conditions of Issue Area 5 of the Settlement, as attached in Attachment A of Appendix ~~A~~**1**of this decision, with the following modifications:

[MODIFICATION TO subpart b. only.]

…….

b. During the 2017-2019 Demand Response Transitional Program Cycle, two end-of-year workshops will be facilitated by the assigned Administrative Law Judge. Each workshop shall be held in ~~**early 2018 and again in early 2019**~~ **late 2017 and again in late 2018 and should ensure that each successive year of the transitional cycle moves the Commission closer to full CAISO market integration and full bifurcation implementation. Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas and Electric Company shall be authorized to file advice letters for any tariff or contract changes required to facilitate this transition.**

ALTERNATE PROPOSED DECISION[42]

APD 2. [75-76] Pursuant to Commission Rules of Practice and Procedure 12.4(c), Alliance for Retail Energy Markets, The California Independent System Operator, California Large Energy Consumers Association, Clean Coalition, Comverge, Inc., Consumer Federation of California, Direct Access Customer Coalition, EnergyHub/Alarm.com, EnerNOC, Inc., Environmental Defense Fund, Johnson Controls, Inc., Marin Clean Energy, Office of Ratepayer Advocates, Olivine, Inc., Pacific Gas and Electric Company, San Diego Gas & Electric Company, Sierra Club, Southern California Edison Company, and The Utility Reform Network have ~~**ten (10)**~~ **forty-five (45) days** following the issuance of this decision to file, in this proceeding, a compliance letter electing to either accept the modifications herein or request other relief.

APD 3. [76] We adopt the terms and conditions of Issue Area 1 of the Settlement, as attached in **Attachment A of** Appendix ~~A~~**1** of this decision, with the following modifications:

a. The Demand Response Potential Study shall be designed by staff using the parameters of the Settlement as a guideline.

~~**b. The Demand Response Potential Study shall address the issue of program categorization, in addition to the other issues set forth in the Settlement.**~~

~~**e**~~**b**. Commission staff is directed to begin the design phase immediately upon approval of this decision.

~~**d**~~**c**. Commission staff is directed to present the design to all stakeholders at an Administrative Law Judge facilitated workshop held within a reasonable time following the issuance of this decision.

~~**e**~~**d**. The Demand Response Potential Study will be completed no later than one calendar year from its commencement.

~~**f**~~**e**. Commission staff is directed to provide a final report to the assigned Administrative Law Judge on the Demand Response Potential Study no later than 90 days from the completion of the study.

f. [*ADDITIONAL/NEW*] Commission staff will present the results of the study through a publicly noticed workshop and accept comment from parties as to the study results before they are adopted as goals for the utilities.

APD 4. [76-78] We adopt the terms and conditions of Issue Areas 2 and 4 of the Settlement, as attached in Attachment A of Appendix ~~A~~**1** of this decision, with the following modifications:

[42] Please note that, while many of the changes to the APD's Ordering Paragraphs mirror those made in the PD, there are additional changes in the APD's Ordering Paragraphs that are required and proposed beyond those proposed for the PD.

a. First, and foremost, we acknowledge the desire by the Settling Parties to take a "measured approach" to the transition to bifurcation**. ~~but believe we can and must move more quickly. Therefore we modify the Settlement to designate the 2016 and 2017 demand response funding periods as a transition period. The period begins with small steps toward bifurcation in 2016 and ends with fully implemented bifurcation in 2018 to include the new valuations for resource adequacy credits.~~ The 2017-2019 demand response program cycle will be a full transitional program cycle beginning with small steps toward bifurcation in 2017 and ending with fully implemented bifurcation in 2019** ~~to include the new valuations for resource adequacy credits~~ **as a "stretch goal." "Full implementation" of bifurcation means that all of the following have been achieved: (1) adoption and implementation of an appropriate methodology to value and operationally account for Load Modifying Resource (LMR) DR, (2) adoption of rules for resource adequacy (RA) treatment of all forms of DR, and (3) implementation of key requirements to integrate DR into CAISO markets where appropriate.** Thereby, beginning **~~January 1, 2018, the transition period will be over and all demand response programs will need to meet resource adequacy rules to either reduce the resource adequacy requirement as a load-modifying resource or to count toward meeting the resource adequacy requirement as a supply resource.~~ January 1, 2019 (or January 1, 2020 if 2019 in not accomplished) the transition period will be over and all demand response programs will need to meet resource adequacy rules to either reduce the RA requirement as a load-modifying resource or to count toward meeting the resource adequacy requirement as a supply resource. The Commission will provide for waivers from the 2019 date for "full implementation" and RA transition, if circumstances show it is not reasonable to attain full implementation by January 1, 2019. In any case the RA transition will take place no later than January 1, 2020.**

b. **~~The hiring of additional experts for the Valuation Working Group is unnecessary and is denied.~~ Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas and Electric Company are authorized to use up to $200,000.00 from the 2015-16 DR budgets to fund outside experts to support the Valuation Working Group.**

~~c. We deny, at this time, the contention that a demand response program can be partitioned into a load modifying and supply resource. Any such future contention, for example in a report, must be accompanied by supporting facts.~~

~~d~~c. The process described in Section B.11.e of the Settlement, regarding the identification and resolution of how unmet goals can be met, shall be considered when the Commission considers the results of the Demand Response Potential Study.

~~e. During the identification of the values of supply and load modifying resources, the Load Modifying Resource Demand Response Valuation Group should capture the value provided by supply resources for meeting the higher levels of costs, requirements, and complexity or, alternatively, load modifying resources~~

~~**should receive lesser value to the extent they do not meet the higher level of costs, requirements and complexity.**~~

~~**f**~~**d**. We establish the following reporting requirements:

i) Integration Working Group – Reports (filed as compliance reports) on the meetings held, the products developed, and the groups' successes and missteps; the mid-year report referred to in the charter, which is to include proposed changes, priorities and time-line, shall also be filed no later than June 30, 2015, as a compliance report;

ii) Valuation Working Group – Given the necessity to vet and integrate the results, all finalized Valuation Working Group conclusions must be filed to the Commission in a compliance report by May 1, 2015;

iii) Operations Working Group – Given the narrow scope of the working group and the necessity to vet and integrate the must be filed to the Commission in a compliance report by June 30, 2015;

iv) Any required submissions may be filed by one or more representatives of the Settling Parties, but the ultimate responsibility of ensuring the filing of these reports shall fall on PG&E, SDG&E, and SCE. If the Working Groups fail to comply with any stated deadlines, Energy Division shall develop a proposal to be included in future DR planning proceedings.

~~g. In **November 2016, PG&E, SDG&E, and SCE are directed to submit applications for the 2018 and post 2018 demand response portfolios.**~~

APD 5. [78-79] We adopt the terms and conditions of Issue Area 3 of the Settlement, as attached in **Attachment A of** Appendix ~~A~~**1**of this decision, with the following modifications:

[MODIFICATION TO subpart c. only and ADDITION OF NEW subpart e.]

…….

c. The Demand Response Auction Mechanism pilot design, set asides requirements, protocols, standard pro forma contracts, evaluation criteria and non-binding cost estimates will be filed at the Commission as a Tier Three advice letter, no later than ~~**February**~~ May 1, 2015.

…….

e. [*ADDITIONAL/NEW*] Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas and Electric Company are authorized to convene workshops to enable all parties, interested stakeholders, and entities to begin the work necessary to develop the DRAM Pilot design, including DRAM RFO solicitations, protocols, standard contracts, and other DRAM Pilot Design matters.

APD 6. [79] We adopt the terms and conditions of Issue Area 5 of the Settlement, as attached in Attachment A of Appendix ~~A~~**1**of this decision, with the following modifications:

~~**a. A Ruling by the assigned Administrative Law Judge in this proceeding will be issued in 2015 will initiate the process to authorize a 2017 bridge funding period.**~~

~~**b. Because we consider years 2016 and 2017 to be transitional, we require two end-of-year review workshops, facilitated by the assigned Administrative Law Judge. The workshops, to be held in late 2015 and again in late 2016, should ensure that each successive year of the transitional cycle moves the Commission closer to full CAISO market integration and full bifurcation implementation. Advice letters will be used to the extent that any transitions require tariff or contract changes are necessary.**~~

~~**e**~~**a.** The provision that the Commission approve the extended budget cycle no later than March 31, 2016 is denied.